

SHB 1640 - H AMD 211

By Representative Springer

WITHDRAWN 03/15/2005

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** (1) The legislature finds that there are
4 factors unique to the relationship between a manufactured/mobile
5 homeowner and a manufactured/mobile home park owner. Once occupancy
6 has commenced, the difficulty and expense in moving and relocating a
7 manufactured/mobile home can affect the operation of market forces, and
8 lead to an inequality of the bargaining position of the parties. Once
9 occupancy has commenced, a homeowner may be subject to violations of
10 the manufactured/mobile home landlord-tenant act or unfair practices
11 without a timely and cost-effective conflict resolution process.
12 Although a homeowner, landlord, or park owner may take legal action as
13 prescribed in the manufactured/mobile home landlord-tenant act, the
14 judicial process is often time and cost prohibitive. This act is
15 created for the purpose of protecting the public, fostering fair and
16 honest competition, and regulating the factors unique to the
17 relationship between the manufactured/mobile homeowner and park owner.

18 (2) The legislature finds that taking legal action against a park
19 owner for violations of the manufactured/mobile home landlord-tenant
20 act can be a costly and lengthy process, and that many people cannot
21 afford to pursue a court process to vindicate statutory rights. Park
22 owners similarly are impacted by legal fees and lengthy proceedings
23 resulting from pursuing a remedy through the legal system and would
24 also, therefore, benefit from having access to an appropriate,
25 effective process that resolves disputes quickly and efficiently.

26 (3) Therefore, it is the intent of the legislature to provide a
27 less costly and more efficient way for manufactured/mobile homeowners
28 and park owners to resolve disputes, and to provide a mechanism for
29 state authorities to quickly locate owners of manufactured housing

1 communities. The legislature further intends to authorize the
2 department of community, trade, and economic development to:

3 (a) Register mobile home parks or manufactured housing communities
4 and report upon data to the appropriate committees of the legislature
5 by December 31, 2005;

6 (b) Expand its current ombudsman program by hiring or contracting
7 with additional persons to conduct a greater number of investigations
8 of alleged violations of the manufactured/mobile home landlord-tenant
9 act; and

10 (c) Collect and report upon data related to conflicts and
11 violations to the appropriate committees of the legislature by December
12 31, 2005.

13 (4) If after receiving the reports under subsection (3) of this
14 section, the legislature finds that the provisions of this act
15 authorizing the department to register mobile/manufactured home
16 communities, investigate complaints, clarify existing law, and work to
17 resolve disputes in good faith voluntarily prove insufficient to
18 adequately protect the rights and responsibilities of mobile home park
19 tenants and owners, it is the intent of the legislature to find other
20 methods for resolution in the future.

21 NEW SECTION. **Sec. 2.** The definitions in this section apply
22 throughout this act unless the context requires otherwise.

23 (1) "Department" means the department of community, trade, and
24 economic development.

25 (2) "Director" means the director of the department of community,
26 trade, and economic development.

27 (3) "Mobile home park" or "manufactured housing community" means
28 any real property that is rented or held out for rent to others for the
29 placement of two or more mobile homes, manufactured homes, or park
30 models for the primary purpose of production of income, except when the
31 real property is rented or held out for rent for seasonal recreational
32 purposes only and is not intended for year-round occupancy.

33 (4) "Landlord" or "park owner" means the owner of a mobile home
34 park or a manufactured housing community and includes the agents of the
35 landlord.

36 (5) "Tenant" or "homeowner" means any person, except a transient,
37 who rents or occupies a mobile home lot.

1 (6) "Owner" means one or more persons, jointly or severally, in
2 whom is vested:

3 (a) All or part of the legal title to the real property; or

4 (b) All or part of the beneficial ownership, and a right to present
5 use and enjoyment of the real property.

6 (7) "Unfair practice" means any act that would constitute an unfair
7 or deceptive act or practice under chapter 19.86 RCW.

8 (8) "Complainant" means a landlord, park owner, tenant, or
9 homeowner, who has a complaint alleging an unfair practice or violation
10 of chapter 59.20 RCW.

11 (9) "Respondent" means a landlord, park owner, tenant, or
12 homeowner, alleged to have committed an unfair practice or violation of
13 chapter 59.20 RCW.

14 NEW SECTION. **Sec. 3.** (1) A complainant shall have the right to
15 file a complaint with the department alleging an unfair practice or a
16 violation of chapter 59.20 RCW.

17 (2) The complainant must provide written notice to the respondent
18 prior to notifying the department of an alleged violation of chapter
19 59.20 RCW or unfair practice. If the complaint is not remedied within
20 the time frame provided by RCW 59.20.080 or 59.20.200, the complainant
21 may then file a complaint with the department.

22 (3) The department may:

23 (a) Investigate the alleged violations at its discretion upon
24 receipt of a complaint alleging unfair practices or violations of
25 chapter 59.20 RCW;

26 (b) Utilize investigative ombudsman staff or contractors to
27 investigate and evaluate complaints alleging unfair practices or
28 violations of chapter 59.20 RCW;

29 (c) Discuss the issues surrounding or relating to the complaint
30 with the complainant, respondent, or any witnesses, either individually
31 or jointly;

32 (d) Explain options available to the complainant or respondent,
33 including the involvement of other agencies; and

34 (e) Negotiate an agreement that is agreed upon by both the
35 complainant and the respondent.

36 (4) The department may require or permit any person to file a

1 complaint or statement in writing or otherwise as the department
2 determines, as to the facts and circumstances concerning a matter to be
3 investigated.

4 (5) The department has the power to:

5 (a) Employ investigative, administrative, and clerical staff as
6 necessary for administration of this act; and

7 (b) Issue guidelines and interpretive statements concerning chapter
8 59.20 RCW.

9 (6)(a) Complainants and respondents shall cooperate with the
10 department in the course of an investigation by:

11 (i) Furnishing any papers or documents requested;

12 (ii) Furnishing in writing an explanation covering the matter
13 contained in a complaint when requested by the department; and

14 (iii) Allowing authorized access to department representatives for
15 inspection of mobile home parks/manufactured housing community
16 facilities relevant to the alleged violation being investigated.

17 (b) Failure to cooperate with the department in the course of an
18 investigation is a violation of this act.

19 (7) After the department has completed its investigation and other
20 duties, the department shall compile a written report documenting the
21 process and resolution of the complaint investigation.

22 (8) By December 31, 2005, the department shall submit a summary
23 report of its activities under this act during the period after the
24 effective date of this act, through December 31, 2005, to the house of
25 representatives housing committee and the senate committee on financial
26 institutions, housing and consumer protection, including:

27 (a) The number of complaints received;

28 (b) The nature and extent of the complaints received;

29 (c) The actions taken on each complaint by the department;

30 (d) Recommendations on what further changes in law are necessary to
31 resolve disputes;

32 (e) Recommendations on changes to the department's ombudsman and
33 investigative programs;

34 (f) Recommendations on resources necessary to retain or improve the
35 program; and

36 (g) Recommendations on whether a formal mobile/manufactured home
37 landlord-tenant act enforcement and administrative hearing process
38 should be adopted and how such a process should be structured.

1 (9) The department shall ensure that notice of the ombudsman
2 complaint resolution program is given to each mobile/manufactured home
3 landlord or park owner and each mobile home unit owner or tenant. The
4 landlord shall maintain a list indicating by tenant initials which
5 tenants have received such a notice. A notice shall also be
6 prominently posted for easy visibility in all common areas of
7 mobile/manufactured home communities, including in each clubhouse,
8 summarizing mobile home park tenant rights and responsibilities, in a
9 style and format to be determined by the department, and including a
10 toll-free telephone number that mobile home park owners and tenants can
11 use to seek additional information and communicate complaints.

12 (10) This section is not exclusive and does not limit the right of
13 landlords or tenants to take legal action against another party as
14 provided in chapter 59.20 RCW or otherwise. Exhaustion of this
15 ombudsman remedy process is not required before bringing legal action.
16 This section does not apply to unlawful detainer actions initiated
17 under RCW 59.20.080; however, a tenant is not precluded from seeking
18 relief under this act if the complaint claims the notice of termination
19 violates RCW 59.20.080.

20 NEW SECTION. **Sec. 4.** The director or individuals acting on the
21 director's behalf are immune from suit in any action, civil or
22 criminal, based upon any disciplinary actions or other official acts
23 performed in the course of their duties under this act, except their
24 intentional or willful misconduct.

25 NEW SECTION. **Sec. 5.** (1) All mobile home parks and manufactured
26 housing communities must be registered with the department.

27 (2) To apply for registration, the owner of a mobile home park or
28 manufactured housing community must file with the department an
29 application for registration on a form prescribed by the department.
30 The department may adopt rules to prescribe the contents of the
31 application. The application must include, but is not limited to:

32 (a) The name and address of the owner of the mobile home park or
33 manufactured housing community;

34 (b) The name and address of the mobile home park or manufactured
35 housing community;

1 (c) The name and address of the manager of the mobile home park or
2 manufactured housing community; and

3 (d) The number of lots within the mobile home park or manufactured
4 housing community that are subject to chapter 59.20 RCW.

5 (3) Certificates of registration are effective on the date issued
6 by the department.

7 NEW SECTION. **Sec. 6.** The department must:

8 (1) Compile the most accurate list possible of all the mobile home
9 parks or manufactured housing communities in the state, the number of
10 lots subject to chapter 59.20 RCW located in each mobile home park or
11 manufactured housing community, and the names and addresses of the
12 owners of these parks. The department shall present this list to the
13 house of representatives housing committee and the senate committee on
14 financial institutions, housing and consumer protection by December 31,
15 2005. The department is encouraged to work with groups including, but
16 not limited to: The office of community development, mobile
17 homeowners' associations, tenant advocacy groups, park owners'
18 associations, and county assessors to generate the list;

19 (2) Send out notifications to all known mobile home park owners or
20 manufactured housing community owners regarding the due date of the
21 assessment pursuant to section 7 of this act. These notifications must
22 include information about late fees, liens, and passing costs on to
23 tenants; and

24 (3) Collect the registration assessment due from all mobile home
25 park owners or manufactured housing community owners, and allow ninety
26 days to pass before late fees and lien notices are sent to noncomplying
27 owners as provided in this act.

28 NEW SECTION. **Sec. 7.** (1) The owner of each mobile home park or
29 manufactured housing community shall pay to the department a
30 registration assessment of five dollars for each mobile home or
31 manufactured home that is subject to chapter 59.20 RCW within a park or
32 community to fund the costs associated with administering this act.
33 Manufactured housing community owners or mobile home park owners may
34 pass on no more than two dollars and fifty cents of this assessment to
35 tenants.

1 (2) If an owner fails to pay the assessment before the registration
2 expiration date, a late fee as determined by the director by rule shall
3 be assessed. The owner is not entitled to any reimbursement of this
4 fee from the tenants. The owner is precluded from utilizing any of the
5 remedies of this act or any other remedy provided in chapter 59.20 RCW
6 if the annual assessment is not paid.

7 (3) If an owner fails to pay the required assessment within ninety
8 days of the registration expiration date, the amount due under this
9 section becomes a lien in favor of the state upon the owner's property.
10 The lien is superior to all other liens and encumbrances except general
11 taxes and local and special assessments, and bears interest computed
12 monthly and compounded annually at a rate of eight percent.

13 NEW SECTION. **Sec. 8.** The manufactured/mobile home investigations
14 account is created in the custody of the state treasurer. All receipts
15 from fees collected under section 7 of this act must be deposited into
16 the account. Expenditures from the account may be used only for the
17 costs associated with administering this act. Only the director or the
18 director's designee may authorize expenditures from the account. The
19 account is subject to allotment procedures under chapter 43.88 RCW, but
20 an appropriation is not required for expenditures.

21 **Sec. 9.** RCW 59.22.050 and 1991 c 327 s 3 are each amended to read
22 as follows:

23 (1) In order to provide general assistance to mobile home resident
24 organizations, park owners, and landlords and tenants, the department
25 shall establish an office of mobile home affairs which will serve as
26 the coordinating office within state government for matters relating to
27 mobile homes or manufactured housing.

28 This office will provide an ombudsman service to mobile home park
29 owners and mobile home tenants with respect to problems and disputes
30 between park owners and park residents and to provide technical
31 assistance to resident organizations or persons in the process of
32 forming a resident organization pursuant to chapter 59.22 RCW. The
33 office will keep records of its activities in this area.

34 (2) The office shall perform all the consumer complaint and related
35 functions of the state administrative agency that are required for
36 purposes of complying with this chapter and the regulations established

1 by the federal department of housing and urban development for
2 manufactured housing, including the preparation and submission of the
3 state administrative plan.

4 (3) The office shall administer the mobile/manufactured home
5 community registration program including the collection of assessments,
6 associated late fees, and the compilation of data related to the number
7 of communities and number of lots within the community that are subject
8 to chapter 59.20 RCW.

9 (4) The office shall administer the mobile home relocation
10 assistance program established in chapter 59.21 RCW, including
11 verifying the eligibility of tenants for relocation assistance.

12 NEW SECTION. Sec. 10. This act is necessary for the immediate
13 preservation of the public peace, health, or safety, or support of the
14 state government and its existing public institutions, and takes effect
15 immediately.

16 NEW SECTION. Sec. 11. This act expires December 31, 2005."

17 Correct the title.

EFFECT: Removes the authority of CTED to establish the
registration assessment by rule and provides for an assessment of
\$5.00, \$2.50 of which may be passed on to tenants. Removes CTED's
adjudication powers such as the authority to issue subpoenas and
administer oaths, take or cause depositions to be taken, and compel
attendance of witnesses at hearings. Removes the reference to "problem
solving groups" to be used to investigate alleged violations and allows
CTED to either hire or contract with additional investigative staff as
required by the program. Expires the act on December 31, 2005, at
which time the appropriate legislative committees will review the
reports created and presented by CTED regarding the number and nature
of complaints and the adequacy of the current ombudsman program to
respond to existing conflicts in order to determine the adequacy of the
current program and to make recommendations, if necessary, for other
methods and procedures for resolution in the future.

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